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12-24-03

AF/1761\$

TRANSMITTAL LETTER (General - Patent Pending)	Docket No. ARM-11206/06
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In Re Application Of: **Richard M. Anderson**

Serial No. 09/139,298	Filing Date August 25, 1998	Examiner Curtis Edward Sherrer	Group Art Unit 1761
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Title: **APPARATUS AND METHOD FOR A BREADMAKING MACHINE**

TO THE COMMISSIONER FOR PATENTS:

Transmitted herewith is:

Request for Oral Hearing with Appropriate fee of \$290
 Reply Brief - in triplicate
 Return Postcard

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in the above identified application.

- ☐ No additional fee is required.
- ☒ A check in the amount of \$620.00 is attached.
- ☒ The Director is hereby authorized to charge and credit Deposit Account No. 07-1180 as described below.
 - ☐ Charge the amount of
 - ☒ Credit any overpayment.
 - ☒ Charge any additional fee required.

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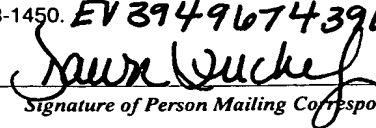


 Signature

Dated: December 22, 2003

Thomas E. Anderson, Reg. No. 31,318
 Gifford, Krass, Groh, Sprinkle,
 Anderson & Citkowski, P.C.
 280 N. Old Woodward Ave., Suite 400
 Birmingham, MI 48009
 (248) 647-6000

I certify that this document and fee is being deposited on 12/22/03 with the U.S. Postal Service as first class mail under 37 C.F.R. 1.8 and is addressed to the Commissioner for Patents, P.O. Box 1450; Alexandria, VA 22313-1450. **EV 39496743945**


 Signature of Person Mailing Correspondence

Dawn Tuchel
 Typed or Printed Name of Person Mailing Correspondence

02/20/2004 SSANDARA 00000025 09139298
 02 FC:2253 475.00 OP
 CC:



Attorney Docket No.: ARM-11206/15

PATENT

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS**

Applicant: Richard M. Anderson

Serial No.: 09/139,298

Examiner: Curtis E. Sherrer

Filed: August 25, 1998

Group Art Unit: 1761

For: APPARATUS AND METHOD FOR A BREADMAKING MACHINE

REQUEST FOR ORAL HEARING

BOARD OF PATENT APPEALS
Assistant Commissioner for Patents
Washington, D.C. 20231

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Dear Sir:

Applicant respectfully requests an oral hearing in the above-identified matter.

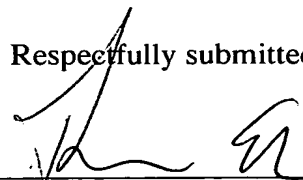
The appropriate fee of \$145.00 for the Request for Oral Hearing as set forth in 37 C.F.R. §1.17 (d) is enclosed.

The Commissioner is authorized to charge any fee or credit in the overpayment in connection with this communication to our Deposit Account No. 07-1180.

Attached to this request, Applicant submits its Reply Brief in response to the Examiner's Answer, dated October 21, 2003.

Respectfully submitted,

By:


Thomas E. Anderson, Reg. No. 31,318
GIFFORD, KRASS, GROH, SPRINKLE,
ANDERSON & CITKOWSKI, P.C.
280 N. Old Woodward, Suite 400
Birmingham, MI 48009
(248) 647-6000

02/20/2004 SSANDARA 00000025 09139298

01 FC:2403

145.00 OP

Dated: 12/22/03



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DATE OF DEPOSIT December 22, 2003

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Commissioner for Patents, Washington D.C. 20231-0001, Attention: Board of Patent Appeals.


Dawn Tuchel

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Attorney Docket No. ARM-11206/06

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS AND INTERFERENCES**

Applicant: Richard M. Anderson

Serial No.: 09/139,298

Group Art Unit: 1761

Filing Date: August 25, 1998

Examiner: Curtis Edward Sherrer

Title: APPARATUS AND METHOD FOR PRODUCING GRAIN BASED
BAKED FOOD PRODUCTS

REPLY BRIEF

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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Dear Sir:

The position taken by the Examiner in rejecting the amendment of the claims to contain "consumer" is contrary to the position the Examiner takes with respect to application of the prior art in a 35 U.S.C. §103. The Examiner is of the position that there is no support in the specification to permit Applicant to utilize the word "consumer". However, at the same time the Examiner utilizes a definition of the word "consumer" which is equivalent to "customer" in order to utilize the art which the Examiner has applied to the claims.

In the specification as filed, Applicant stated:

The grain based food product machine of the present invention may be conveniently located in a retail outlet store, such as a supermarket. Customers can come into the store and custom order a baked product to their own recipe criteria for immediate delivery or delivery at some future time. As a further convenience, distal input such as that indicated by telephone 126 or a home computer could be hooked into the processor 18 and keyboard 98 such that the customer can order the baked food product from his or her home and automatic billing can be incorporated into the control unit 18 for this mode. (Page 7, lines 14-21.)

Further, Applicant states “In this way, the customer can select a delivery time at his convenience so that the finished product is just out of the oven when picked up by the customer.” (Page 8, lines 8-10.) Finally, the specification stated:

As discussed above, the customer interface can include an automated phone answering device or computer modem which permits the customer to input order information either by personal computer, or by phone from a remote location. The customer can input directly into the process control unit billing information, such as a credit card number. In this manner, the customer can place an order by phone or by computer days in advance and arrive at the store at the scheduled time to receive a freshly baked product made according to the customer’s specifications. As discussed above, the unit can be provided in a single apparatus so that it can be installed in a retail store, such as a grocery store or convenience store.” (Page 8, lines 20-29.)

It is clear from the above, that the original specification utilized the word “customer” to refer to a consumer or a purchaser who was ordering and purchasing goods for his or her own use. The use of words “order the baked food product from his or her home,” “personal computer”, “picked up by the customer” and the fact that the product is intended to be produced in a retail store such as a grocery store or convenience store clearly indicates that the “customer” referred to in the specification is also the “consumer” or end user.

In order to more particularly define Applicant’s invention over the prior art, Applicant attempted to amend the specification and claims to utilize the word “consumer”. The Examiner is of the position that a retailer or distributor who places an order with a bakery is the equivalent of a customer as used in Applicant’s claims. Applicant amended the claims to use “consumer” in order to be consistent with the way the term “customer” is used in the specification. Applicant selected “consumer” to refer to a purchaser who is also the end user. It is submitted that the use of “consumer” is properly supported in the specification and fairly reflects what is supported by the specification.

It is clear that in this context the Examiner is using hindsight reconstruction to obviate Applicant's invention. None of the prior art discloses providing a single machine at a desired location with an electronic process control unit, consumer interface housing, customer delivery device, permitting the consumer to place an order from a remote location, and having a machine automatically produce baked goods from a variety of recipes to produce a fresh baked dough product for delivery at a specified time is disclosed in any of the prior art singly or in combination.

As previously discussed, the prior art references are directed to producing bread or baked products in commercial applications. In applying Litwak and Muskalk, the Examiner states that "These two articles provide the teaching that bakery orders from retail customers can be taken and tracked by computer. They do not teach that these same computers are linked to the machinery for manufacturing the baked items." (Examiner's brief, page 5.) This is not correct. Neither of these references teach taking orders by computer. Muskalk teaches only that the bakery has programs which "include those for accounts receivable, bread recipes, cake recipes, and billing for wholesale accounts." There is no teaching in this article that bakery orders are taken and tracked by computer. Litwak discloses software that keeps a running inventory of all the ingredients that are in storage and has production guides built in that manipulate the recipes and has historic sales files. Litwak does disclose taking an order by hand and entering it in the computer to track the inventory, etc.

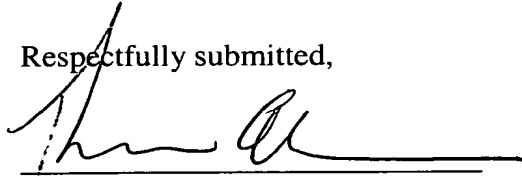
These references do not teach or suggest permitting a customer or consumer to enter directly into the control system of a single machine which is going to produce the product a specific order for a product or defined product from a group of recipes. There is no suggestion in these or any of the other prior art references to provide a single machine in which the customer or consumer can directly input an order, select a recipe and receive fresh

baked goods from a delivery station. Not only do the references not teach all of the features of Applicant's invention, there is no motivation to combine the references in the way suggested by the Examiner. The references are directed to permitting commercial bakeries to monitor and control their business.

The Examiner argues that it is prima facie obvious to automate a manual activity and to scale up or scale down well known processes. Applicant is doing much more than scaling down a commercial bread making apparatus or merely automating a process. Applicant is providing a single machine into which the customer or consumer can place an order directly and select from recipes stored in the controller using this machine to produce the specified baked good on demand and permitting the customer to pick up the specified grain based baked product from the machine at a convenient location. The claimed invention is more than merely automating or scaling down a well-known process. The Examiner has developed a hypothetical process by combining a number of references and then argues Applicant is merely scaling down or automating the hypothetical combination of prior art. Even if it could be argued that the combination of references would produce a fully automated baking process, there is no system in the prior art in which the customer directly inputs his order into an automated facility either at the facility or from his place of business, selects a recipe and a baked product is produced without human intervention for delivery at a customer station. If there were such prior art, the Examiner could argue that Applicant is merely scaling down a large operation. There is no motivation to combine these references in such a way as to arrive at a single machine as required by Applicant. None of the references involve providing a single machine which may be placed at a location convenient to the customer or consumer and permitting the customer or consumer to input its order directly into the machine.

Accordingly, Applicant respectfully requests reversal of the rejection and allowance of the claims.

Respectfully submitted,



Thomas E. Anderson
Registration No. 31,318
Gifford, Krass, Groh, Sprinkle,
Anderson & Citkowski, P.C.
280 N. Old Woodward, Suite 400
Birmingham, MI 48009
(248) 647-6000

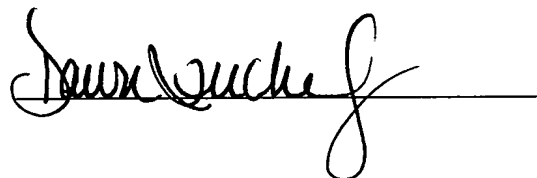
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I hereby certify that this paper or fee (along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service "Express Mail Post Office To Addressee" Service under 37 CFR 1.10 on the date indicated above and is addressed to: Mail Stop Appeal Brief – Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.



**TRANSMITTAL LETTER TO THE
UNITED STATES RECEIVING OFFICE**

Date	June 26, 2003
International Application No.	PCT/US03/13579
Attorney Docket No.	TRCX003/00WO

I. Certification under 37 CFR 1.10 (if applicable)

Express Mail mailing number

Date of Deposit

I hereby certify that the application/correspondence attached hereto is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to Assistant Commissioner for Patents, Washington, D.C. 20231.

Signature of person mailing correspondence
--

Typed or printed name of person mailing correspondence
--

II. ☐ New International Application

TITLE	
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Earliest priority date (Day/Month/Year)
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SCREENING DISCLOSURE INFORMATION: In order to assist in screening the accompanying international application for purposes of determining whether a license for foreign transmittal should and could be granted and for other purposes, the following information is supplied. (Note: check as many boxes as apply):

- A. ☐ The invention disclosed was not made in the United States.
- B. ☐ There is no prior U.S. application relating to this invention.
- C. ☐ The following prior U.S. application(s) contain subject matter which is related to the invention disclosed in the attached international application. (NOTE: priority to these applications may or may not be claimed on form PCT/RO/101 (Request) and this listing does not constitute a claim for priority.)

application no.		filed on	
application no.		filed on	

- D. ☐ The present international application contains additional subject matter not found in the prior U.S. application(s) identified in paragraph C. above. The additional subject matter is found on pages and ☐ DOES NOT ALTER ☐ MIGHT BE CONSIDERED TO ALTER the general nature of the invention in a manner which would require the U.S. application to have been made available for inspection by the appropriate defense agencies under 35 U.S.C. 181 and 37 CFR 5.1. See 37 CFR 5.15

III. ☐ A Response to an Invitation from the RO/US. The following document(s) is(are) enclosed:

- A. ☐ A Request for An Extension of Time to File a Response
- B. ☒ A Power of Attorney (General or Regular)
- C. ☐ Replacement pages:

pages		of the request (PCT/RO/101)	pages		of the figures
pages		of the description	pages		of the abstract
pages		of the claims			

- D. ☐ Submission of Priority Documents

Priority document		Priority document	
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- E. ☐ Fees as specified on attached Fee Calculation sheet form PCT/RO/101 annex

IV. ☐ A Request for Rectification under PCT 91 ☐ A Petition ☐ A Sequence Listing Diskette

V. ☒ Other (please specify):

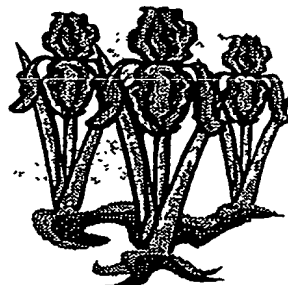
Response to Invitation to Pay Additional Fees w/authorization to charge Dep. Acct. 501283-\$210 and photocopy of Invitation; return postcard

The person
signing this
form is the:

<input type="checkbox"/> Applicant	Christopher R. Hutter (Reg. No. 41,087)
<input checked="" type="checkbox"/> Attorney/Agent (Reg. No.)	Typed name of signer
<input type="checkbox"/> Common Representative	Signature

PCT/US03/13579.25062003

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TRANSMISSION COVER SHEET

DATE: June 18, 2003

PCT/US03/13579

TO: COOLEY GODWARD

FIRM:

PHONE: (703) 456-8000

FAX: (703) 456-8100

FROM: SHARON S. HOPPE
PARALEGAL SPECIALIST
OFFICE OF THE SPECIAL PROGRAMS EXAMINER
TECHNOLOGY CENTER 2800
PHONE (703) 308-4102

FAX (703) 746-6887

NUMBER OF PAGES 3, INCLUDING THIS PAGE

In an effort to promote efficiency and provide better customer service, attached is the official copy of the INVITATION TO PAY ADDITIONAL FEES (PCT/IST/206). Please note the response will be set 15 days from the date of this fax. The response time period is not extendable.

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Sharon Hoppe

PCT/US03/13579 - 26052003

Attorney Docket No.: TRCX003/00WO

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
UNITED STATES RECEIVING OFFICE**

Intl. App. No.: PCT/US03/13579

Applicant: Invensys Systems, Inc.

Intl Filing Date: May 01, 2003

**For: FAULT TOLERANT APPARATUS AND METHOD FOR DETERMINING
A REVOLUTION RATE OF A GEAR**

**Mail Stop PCT
ATTN: Sharon S. Hoppe**

RESPONSE TO INVITATION TO PAY ADDITIONAL FEES

In response to the Invitation to Pay Additional Fees dated June 17, 2003 and sent by facsimile June 18, 2003 (copy attached), please charge the additional fee of \$210.00 to Deposit Account No. 50-1283. This paper is submitted in duplicate.

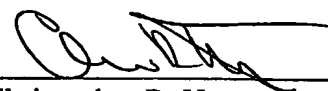
If there are any questions, please contact the undersigned.

DATE: June 26, 2003

Respectfully submitted,
COOLEY GODWARD LLP

Cooley Godward LLP
Attn: Patent Group
One Freedom Square
Reston Town Center
11951 Freedom Drive
Reston, VA 20190-5656
Tel: (703) 456-8000
Fax: (703) 456-8100

By:


Christopher R. Hutter
Reg. No. 41,087

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PCT/US03/13579.25082403
PATENT COOPERATION TREATY

From the INTERNATIONAL SEARCHING AUTHORITY

To:
 COOLEY GODWARD LLP
 ATTN: PATENT GROUP
 11951 FREEDOM DRIVE
 ONE FREEDOM SQUARE-RESTON TOWN CENTER
 RESTON, VA 20190

PCT

INVITATION TO PAY ADDITIONAL FEES

(PCT Article 17(3)(a) and Rule 40.1)

Applicant's or agent's file reference, TRCX003/00WO	Date of Mailing (day/month/year) JUN 17 2003
International application No. PCT/US03/13579	PAYMENT DUE within 15 days from the above date of mailing
Applicant INVENSYS SYSTEMS, INC.	International filing date (day/month/year) 01 May 2003 (01.05.2003)

1. This International Searching Authority

(i) considers that there are 2 (number of) inventions claimed in the international application covered by the claims indicated below/on an extra sheet:
 Please See Continuation Sheet

and it considers that the international application does not comply with the requirements of unity of invention (Rules 13.1, 13.2 and 13.3) for the reasons indicated below/on an extra sheet:
 Please See Continuation Sheet

- (ii) ☐ has carried out a partial international search (see Annex) ☒ will establish the international search report on those parts of the international application which relate to the invention first mentioned in claims Nos.: Claims 1-19 and 29-38
- (iii) will establish the international search report on the other parts of the international application only if, and to the extent to which, additional fees are paid.

2. The applicant is hereby invited, within the time limit indicated above, to pay the amount indicated below:

\$210.00
 Fee additional per invention X 1 number of additional inventions = \$210.00
 total amount of additional fees

The applicant is informed that, according to Rule 40.2(c), the payment of any additional fee may be made under protest, i.e., a reasoned statement to the effect that the international application complies with the requirement of unity of invention or that the amount of the required additional fee is excessive.

- ☒ Claim(s) Nos. Claims 20-28 have been found to be unsearchable under Article 17(2)(b) because of defects under Article 17(2)(a) and therefore have not been included with any invention.

name and mailing address of the ISA/US
 Mail Stop PCT, Attn: ISA/US
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, Virginia 22313-1450
 simile No. (703)305-3230
 PCT/ISA/206 (July 1992)

Authorized officer

Marc S Hoff

Telephone No. (703)-308-1782

20 JE 2003
 01 JL 2003

PCT/US03/13579.26062003

INVITATION TO PAY ADDITIONAL FEES

International application No.
PCT/US03/13579

This International Search Authority has found 2 inventions claimed in the International Application covered by the claims indicated below:

Group I: Claims 1-19 and 29-38, drawn to apparatus for determining the speed of a gear, classified as U.S. 702/57 or IPC G06F 19/00

Group II: claims 20-28, drawn to an apparatus for measuring a pulse input with three redundant structures, and classified as U.S. 324/676 or IPC G01R 27/26

1. This International Searching Authority considers that the international application does not comply with the requirements of unity of invention (Rules 13.1, 13.2 and 13.3) for the reasons indicated below:

Group I (claims 1-19 and 29-38) are directed to an edge detector configured to receive input signal and counter signal, the edge detector further configured to send a plurality of time values based on the input and the counting signal. The features can be practiced in areas where an RPM data or disk failure study is desirable, for instance aircraft engine study, speedometer in an automobile to name a few.

Group II (claims 20-28) are directed to a pulse input engine with three redundant structures. A pulse input measurement system has several applications: such as telecommunication where a voice or text data are transmitted over a fiber optic or cable network with a code modulation technique.

SECRET

PCT

POWER OF ATTORNEY

(for an international application filed under the Patent Cooperation Treaty)

(PCT Rule 90.4)

The undersigned applicant(s) (Names should be indicated as they appear in the request):

Invensys Systems, Inc.
15345 Barranca Parkway
Irvine, CA 92618-2501
US

hereby appoints (appoint) the following person as:

X agent

☐ common representative

Name and address

(Family name followed by given name; for a legal entity, full official designation. The address must include postal code and name of country.)
PIETRANTONIO, Frank V.; TALBOT, C. Scott; JAMES, J. M.

PIETRANTONIO, Frank V.; TALBOT, C. Scott; and HUTTER, Christopher R., all of

Cooley Godward LLP
Attn: Patent Group
11951 Freedom Drive
One Freedom Square-Reston Town Center
Reston, Virginia 20190
US

to represent the undersigned before

☒ all the competent International Authorities

☐ the International Searching Authority only

☐ the International Preliminary Examining Authority only

in connection with the international application identified below:

Title of the invention: Fault Tolerant Apparatus and Method for Determining A Revolution Rate of a Gear

Applicant's or agent's file reference:

TRCX003/00WO

International application number (if already available): PCT/US03/13579

filed with the following Office U.S. Patent and Trademark Office
and to make or receive payments on behalf of the undersigned, _____ as receiving Office

Signature of the applicant(s) (where there are several applicants, each of them must sign; next to each signature, indicate the name of the person signing and the capacity in which the person signs, if such capacity is not obvious from reading the request or this power).

Jay S. Ewer

(signature)

Jay S. Ehle

_____. (typed/printed name)

Vice President

(typed/printed title)

Date: June 20, 2003

Form PCT/Model of power of attorney (for a given international application) (July 1992)